

**DECLARATION FOR NON-PROVISIONAL PATENT APPLICATION**

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below at 201 et seq. beneath my name.

I believe I am the original, first and sole inventor if only one name is listed at 201 below, or an original, first and joint inventor if plural names are listed at 201 et seq. below, of the subject matter which is claimed and for which a patent is sought on the invention entitled

INTERVERTEBRAL DISK PROSTHESIS

and for which a patent application:

- ☐ is attached hereto and includes amendment(s) filed on _____ (if applicable)
- ☒ was filed in the United States on October 21, 2003 as Application No. 10/690,430 (declaration not accompanying application) with amendment(s) filed on _____ (if applicable)
- ☐ was filed as PCT international Application No. _____ on _____ and was amended under PCT Article 19 on _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED PRIOR TO THE FILING DATE OF THE APPLICATION			
APPLICATION NUMBER	COUNTRY	DATE OF FILING (day, month, year)	PRIORITY CLAIMED
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

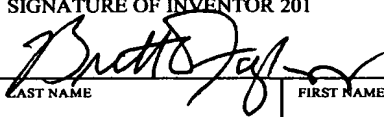
PROVISIONAL APPLICATION NUMBER	FILING DATE
<u>60/419,556</u>	<u>October 21, 2002</u>

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information known to me which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

NON-PROVISIONAL APPLICATION NO.	FILING DATE	STATUS		
		PATENTED	PENDING	ABANDONED

* for use only when the application is assigned to a company, partnership or other organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

201	FULL NAME OF INVENTOR	LAST NAME TAYLOR	FIRST NAME Brett	MIDDLE NAME Allison	
	RESIDENCE & CITIZENSHIP	CITY Clayton	STATE OR FOREIGN COUNTRY Missouri	COUNTRY OF CITIZENSHIP United States	
	POST OFFICE ADDRESS	STREET 6300 Wydown Boulevard	CITY Clayton	STATE OR COUNTRY Missouri	ZIP CODE 63105
		SIGNATURE OF INVENTOR 201 		DATE Aug 10, 2004	
202	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY	ZIP CODE
		SIGNATURE OF INVENTOR 202		DATE	
203	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY	ZIP CODE
		SIGNATURE OF INVENTOR 203		DATE	
204	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY	ZIP CODE
		SIGNATURE OF INVENTOR 204		DATE	



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Brett Allison TAYLOR Confirmation No.: 3833
Application No.: 10/690,430 Group Art Unit: 3738
Filing Date: October 21, 2003 Examiner: Not yet assigned
For: INTERVERTEBRAL DISK PROSTHESIS Attorney Docket No.: 104558-200

**REVOCATION AND POWER OF ATTORNEY BY ASSIGNEE
AND EXCLUSION OF INVENTOR(S) UNDER 37 C.F.R. 3.71**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned assignee of the entire interest in the above-identified subject application hereby revokes all prior powers and appoints Allan A. Fanucci (Reg. No. 30,256), Daniel J. Hulseberg (Reg. No. 36,554), and Jeffrey A. Wolfson (Reg. No. 42,234) of WINSTON & STRAWN LLP (Customer No. 28765) to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith.

Please direct all correspondence for this application to Customer No. 28765 to the attention of the Patent Department (telephone 202-371-5904, facsimile 202-371-5950).

An assignment of the entire interest in the above-identified subject application was recorded on August 17, 2004 at Reel 014995, Frame 0376.

The undersigned has reviewed this assignment and, to the best of his/her knowledge, title is in the assignee seeking to take action in this application and that he/she is empowered to act on its behalf.

ASSIGNEE: **3HBFM, LLC**

Signature: _____

Date of Signature: 8/17/04

Typed Name: Timothy J. Gatzulis

Position/Title: Managing Member

Address: 3906 Creekway Trail

Dayton, Ohio 45440



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inter application of: Brett Allison TAYLOR Confirmation No.: 3833
Application No.: 10/690,430 Group Art Unit: 3738
Filing Date: October 21, 2003 Examiner: Not Assigned
For: INTERVERTEBRAL DISK PROSTHESIS Attorney Docket No.: 104558-200

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
[37 CFR 1.27(a)(2) - Small Business Concern]**

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

I hereby declare that I am

- ☒ an official of the small business concern empowered to act
in behalf of the concern identified below:

**3HBFM, LLC
3906 Creekway Trail
Dayton, Ohio 45440**

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 37 CFR 1.27(a)(2), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the person employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern and/or there is an obligation under contract or law by the inventor(s) to convey rights to the small business concern with regard to the invention entitled **EXPANDABLE INTERVERTEBRAL DISK** by **Brett A. TAYLOR**, described in the specification filed on October 21, 2002 as U.S. Application No. 10/690,430.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.27(a)(1) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.27(a)(2), or a nonprofit organization under 37 CFR 1.27(a)(3).

FULL NAME: _____
ADDRESS: _____

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.27 (g)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.


Send correspondence to: E. Bradley Gould Direct Telephone calls to:
 WINSTON & STRAWN LLP WINSTON & STRAWN LLP
 Customer No. 28765 202-371-5771

Name of Person Signing: Timothy J. Gatzulis

Title other than Owner: Managing Member

Address of Signer: 3906 Creekway Trail

Dayton, Ohio 45440

Signature:  Date: 8/11/04

*NOTE: Separate verified statements are required from each named person, concern, or organization having rights to the invention averring to their status as small entities.